

Miller



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Philadelphia Maintenance Co., Inc.  
**File:** B-235399  
**Date:** August 11, 1989

### DIGEST

Protest to the General Accounting Office filed more than 10 working days after notice of initial adverse agency action on agency-level protest is untimely and will not be considered.

### DECISION

Philadelphia Maintenance Co., Inc. (PMC), protests any award under invitation for bids (IFB) No. N62472-88-B-4226, issued by the Department of the Navy for janitorial services.

On December 27, 1988, the original bid opening date, a PMC representative hand-carried the PMC bid to the Navy office specified in the IFB. Upon his arrival, the procurement clerk informed the PMC representative that the Navy had decided that day to postpone bid opening indefinitely, that all potential bidders were being notified by telephone, and that an amendment confirming the postponement was forthcoming. The PMC representative then left the office without submitting the bid. That afternoon, the Navy issued amendment 0002 to the IFB which formally extended the bid receipt date indefinitely. On January 4, 1989, the Navy issued amendment 0003, which made material modifications to the IFB and set bid opening for January 17. On January 10, the Navy issued amendment 0004, which made additional modifications to the IFB and further extended the bid opening date to January 24. PMC contends that it never received amendment 0004 <sup>1/</sup>, and therefore did not discover the January 24 bid opening date until February 9, when it inquired about the status of award under the IFB.

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<sup>1/</sup> Apparently PMC also failed to receive amendment 0003 which set a January 17 bid opening date.

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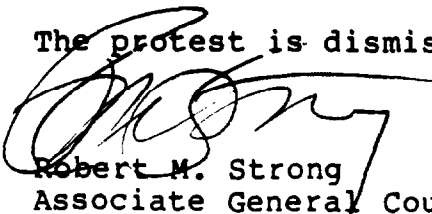
PMC filed an agency-level protest with the Navy on February 14, contending that since it was unaware of the bid opening date it was prevented from competing under the IFB. The contracting officer denied the protest by letter dated April 11, which PMC received on April 18. PMC then filed its protest with our Office by letter dated April 28, which was received on May 3.

When a protest is filed initially with the contracting agency, any subsequent protest to our Office must be received within 10 working days of the protester's notice of the initial adverse agency action. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1988). A protest is considered filed when it is received by our Office. 4 C.F.R. § 21.0(g). Here, we did not receive PMC's protest until May 3, 11 working days after PMC was notified of the Navy's decision on its protest. In order to be timely, PMC should have filed its protest in our Office by the close of business on May 2. Accordingly, PMC's protest of the Navy's denial of its agency-level protest is untimely. Discount Mach. & Equip., Inc., B-233541, Feb. 14, 1989, 89-1 CPD ¶ 154.

PMC contends that its protest merits consideration under 4 C.F.R. § 21.2(b), which provides for consideration of untimely protests for good cause shown or where a significant issue is raised. In order to invoke the good cause exception, the protester must demonstrate some compelling reason beyond the protester's control which prevents the protester from submitting a timely protest. Farinelli Constr. Inc.--Request for Reconsideration, B-234636.2, Mar. 29, 1989, 89-1 CPD ¶ 329. PMC has failed to show any circumstances which prohibited the company from filing a timely protest.

Nor do the merits of this case qualify under the significant issue exception to the timeliness rules. We will not invoke the significant issue exception where, as here, the protest does not raise an issue of widespread interest to the procurement community or where the issue raised has already been considered in previous decisions. Christoph's Research and Design Sys., Inc.--Reconsideration, B-232966.2, Feb. 14, 1989, 89-1 CPD ¶ 151.

The protest is dismissed.



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